

DUPLICATE

**FAX**

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DATE: 8/6PAGES: 5
(No. of pages including this cover sheet)TO: Henry Wilson
(ATTORNEY, AGENT, FIRM OR AGENCY)08/482,402
(ATTORNEY'S DOCKET NUMBER OR APPLICATION NUMBER)202-942-8484
(FAX/TELECOPIER NUMBER)FROM: S. Unger, EXAMINER,

ART UNIT 18

Group 1800 Fax Numbers

DIRECTOR'S OFFICE (703) 305-7230	BPS GROUP 1800 (703) 305-7230
ART UNIT 1801 (703) 308-3014	ART UNIT 1811 (703) 305-3014
ART UNIT 1802 (703) 308-4242	ART UNIT 1812 (703) 308-0294
ART UNIT 1803 (703) 308-4227	ART UNIT 1813 (703) 305-7939
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ART UNIT 1805 (703) 308-0294	ART UNIT 1815 (703) 305-7939
ART UNIT 1806 (703) 305-7939	ART UNIT 1816 (703) 308-4242
ART UNIT 1807 (703) 305-7401	ART UNIT 1817 (703) 308-4242
ART UNIT 1808 (703) 305-7401	ART UNIT 1818 (703) 308-4242
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EXAMINER'S OFFICE PHONE NUMBER: (703) 305-2181IF YOU HAVE NOT RECEIVED ALL OF THE PAGES OF THIS TRANSMISSION,
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Weds - 4PM

Serial Number: 08/482,402

1

Art Unit: 1806

Hi
I checked further into the 129 (b) -
& found this, any response must be in
writing with a mail room stamp. When you
decide what you want to do you can fax
me.

I'm faxing you a courtesy copy to
save some time. The action is already written
& will go out immediately upon your response.

I've tried to get you by phone several times
today & will leave a message next time
I call, any questions you can get me at
703-305-2181 -

Thanks,

Susan Hoyer

The restriction requirement will be mailed in the day

Serial Number: 08/482,402

Art Unit: 1806

Draft 2

1. The Response to the Restriction Requirement filed July 18, 1997 (Paper No. 7) in response to the Office Action of June 10, 1997 (Paper No. 6) is acknowledged and has been entered.
2. Applicant's election with traverse of Group I, claims 11-15 in Paper No 7 is acknowledged. The traversal is on the ground(s) that the instant divisional application corresponds to Group IV of the four-way Restriction Requirement issued in the parent application and that the instant application claims the benefit under 35 USC 120 of prior applications dating to 31 July 1989 and that the Office is prohibited pursuant to 37 1.129(b)(1) from maintaining the requirement for restriction of the instant application. The argument has been noted but has not been found persuasive because the restriction requirement of the instant application is not identical to that of the parent application, therefore, this application is subject to the transitional restriction provisions of Public Law 103-465 as follows:
3. This application is subject to the transitional restriction provisions of Public La 103-465, which became effective on June 8, 1995, because:
 1. the application was filed on or before June 8, 1995, and has an effective U.S. filing date of June 8, 1992, or earlier;
 2. a requirement for restriction was not made in the present or a parent application prior to April 8, 1995; and
 3. the examiner was not prevented from making a requirement for restriction in the present or a parent application prior to April 8, 1995, due to actions by the applicant.

The transitional restriction provisions permit applicant to have more than one independent and distinct invention examined in the same application by

Serial Number: 08/482,402

3

Art Unit: 1806

paying a fee for each invention in excess of one by paying a fee for each invention in excess of one.

Final rules concerning the transition restriction provisions were published in the Federal Register at 60 FR 20195 (April 25, 1995) and in the Official Gazette at 1174 O.G. 15 (May 2, 1995). The final rules at 37 CFR 1.17(s) include the fee amount required to be paid for each additional invention as set forth in the following requirement for restriction. See the current fee schedule for the proper amount of the fee.

Applicant must either: (1) elect the invention or inventions to be searched and examined and pay the fee set forth in 37 CFR 1.17(s) for each independent and distinct invention in excess of which applicant elects; or (2) file a petition under 37 CFR 1.129(b) traversing the requirement.

4. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

Group I. Claims 11-15 are drawn to a recombinant DNA sequence encoding human thyroid peroxidase which is secreted from a cell and a vector comprising the DNA sequence classified in Class 536, subclass 23.1 and Class 435 subclass 320.1.

Group II. Claim 37 is drawn to a DNA sequence encoding a peptide which binds to the B-cell epitope of thyroid peroxidase, classified in Class 536, subclass 23.1.

5. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II as disclosed are chemically distinct, unrelated in structure and function, used in different methods and are therefore distinct

Serial Number: 08/482,402

4

Art Unit: 1806

inventions.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

8. Upon review of the application, the Notice to Comply with the Sequence Rules is withdrawn.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (703) 308-305-2181.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lila Feisee, can be reached at (703) 308-2731. The fax phone number for this Art Unit is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Susan Ungar

August 6, 1997